



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROSS M. HIGASHI
EDUARDO P. MANGALLAN
PATRICK H. MCCAIN
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 10, 2022
3:00 P.M.
State Capitol, Teleconference

S.B. 3370
RELATING TO CONSTRUCTION MANAGEMENT

Senate Committee on Transportation

The Department of Transportation (DOT) **opposes** this bill that creates a three-year pilot program within the DOT that requires procurement of professional services from construction management consultants using the competitive sealed bidding and competitive sealed proposals methods of procurement. Exempts emergency procurements. Requires annual reports to the Legislature. The DOT opposes the bill for the following reasons:

- The Brooks Act of 1972 (Public Law 92-582) establishes a qualifications-based selection process, in which contracts for A/E's are negotiated on the basis of demonstrated competence and qualification for the type of professional services required at a fair and reasonable price.
- The majority of Highways construction management consultants are federally funded and subject to procurement in compliance with the Brooks Act.
- 103D-302, Hawaii Revised Statutes (HRS) (Competitive Sealed Bidding) is not compliant with the Brooks Act
- 103D-304, HRS (Procurement of Professional Services) provides a procurement mechanism that is compliant with the Brooks Act.
- Procuring the services of licensed Professional Engineers, Architects, Surveyors and/or Landscape Architects as construction management consultants provide the competency, qualifications and experience needed to oversee projects.

Thank you for the opportunity to provide testimony.

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Hawaii

50 Years of Excellence

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February 9, 2022

Senate Committee on Transportation

Hearing Date: Thursday, February 10, 2022, 3:00 p.m.

Honorable Chair Chris Lee, Vice Chair Lorraine R. Inouye, and Members of the Committee

Subject: **SB 3370, Relating to Construction Management
TESTIMONY IN OPPOSITION**

Dear Chair Lee, Vice Chair Inouye, and Committee Members:

We strongly oppose this bill because it does not comply with HRS §103D-304, which involves Qualifications-Based Selection (QBS). Construction management services, just like design services, for all Hawaii DOT (and all public works) construction projects should only be performed by professionals licensed under HRS Chapter 464 that are deemed the most qualified for the specific nature and scope of each individual project – NOT THE LOWEST BIDDER.

The primary reasons for this include the roles of responsibility that construction management services have regarding public safety and responsible oversight of government-funded construction projects. That is why Qualifications-Based Selection (QBS) is the nationally recognized model for procuring construction management services, and design services, for all public works construction projects.

Construction managers serve as the project owner's on-site representative and are responsible for observing and documenting compliance with the design plans and specifications and project permits. They are intimately familiar with the scope of work, project tasks, and potential constructability constraints. Construction managers need to work closely with the designers and construction contractors to solve potential unforeseen circumstances. This essential collaboration is needed for safety reasons and can help minimize cost overruns, but only if the most qualified professionals are selected on a project-by-project basis to serve as the construction manager.

The American Council of Engineering Companies of Hawaii (ACECH) represents more than 70 member firms with over 1,500 employees throughout Hawaii. ACECH and its member firms are committed to protecting the safety of our highways, bridges, infrastructure and buildings; the quality of the water that we drink; and the quality of the environment in which we work and play.

We appreciate the opportunity to provide testimony on this matter. Please do not hesitate to contact us if you have any questions.

Respectfully submitted,
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF HAWAII



Derek Mukai, P.E.
President



Senate Committee on Transportation

Hearing Date: Thursday, February 10, 2022, 3:00 p.m.

Honorable Chair Chris Lee, Vice Chair Lorraine R. Inouye, and Members of the Committee
Subject:

TESTIMONY IN OPPOSITION - SB 3370, Relating to Construction Management

Dear Chair Lee, Vice Chair Inouye, and Committee Members:

CONSOR Engineers, LLC (CONSOR) is a multi-discipline firm providing engineering services for structural engineering, water-wastewater, transportation planning and design, and construction services. CONSOR's project portfolio, spans thousands of transportation projects across North America, Canada, Hawaii, and Overseas. Our firm's extensive roster of clients is comprised of numerous state departments of transportation, the US Army Corps of Engineers, the US Coast Guard, the US Navy, and the US Department of the Interior. CONSOR has conducted engineering work in 49 states and is familiar with numerous state and local procurement and contracting regulations. With 60 offices and more than 1,200 employees, including 330+ professional engineers. *CONSOR is ranked #69 on Engineering News-Record's Top 500 firms list for 2021.*

Our construction services group is thoroughly familiar with the requirements and needs of a qualified and knowledgeable construction manager position on construction projects. They are an essential person tasked with ensuring compliance with the plans and specifications as well as contract management. This position requires a high level of construction processes and contracting knowledge to ensure the project proceeds according to schedule and remains within budget. Construction managers need to work closely with the contractor to solve potential unforeseen circumstances. This essential collaboration can help minimize cost overruns or costly change orders if the construction manager is thoroughly qualified and properly trained.

It is crucial that the construction manager have a deep understanding of design and construction processes. We are unsure if the bill is attempting to encourage the use of unlicensed firms to provide construction management services, but we question whether the State wants to assume the related risks and costs of using potentially unqualified firms for this role.

For design professionals licensed under Chapter 464 and providing construction management, qualification-based selection in accordance with HRS §103D-304 is required. "Qualifications-based selection" (QBS) is the nationally recognized model procurement code for the procurement of design professional services and provides the project owner with the most qualified representative in the construction process, reducing the owner's risks.

CONSOR requests this bill be deferred.

Mahalo for hearing our testimony, if you would like to discuss further, I can be available for consultation on this matter.

A handwritten signature in black ink, appearing to read "Ikaika Kincaid".

Ikaika Kincaid, PE, CCM
Regional Director, Hawaii



February 9, 2022

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Honorable Chair Chris Lee, Vice Chair Lorraine R. Inouye, and Members of the Committee

Subject: **SB 3370, Relating to Construction Management**
TESTIMONY IN OPPOSITION

Dear Chair Lee, Vice Chair Inouye, and Committee Members:

As the President of a local professional construction management and engineering company, I strongly oppose SB 3370 for the following reasons:

- This bill does not comply with HRS §103D-304.
- To protect the safety of the public and the environment, and to provide responsible oversight of government-funded projects, only licensed professional engineers, architects (or other professionals licensed under HRS Chapter 464) – and only those with experience and qualifications that are specifically pertinent to the project – should be considered to serve as construction managers on public works projects. Such has been, and still is, the nation-wide industry standard, which is also known as Qualifications-Based Selection (QBS).
- To select a construction manager for any public works project based on what is being proposed in this bill (i.e. lowest bidder) would be irresponsible, increase the potential for public safety and environmental risks, and increase the potential for construction cost overruns.

I also join in the testimony of the American Council of Engineering Companies of Hawaii who also opposes this bill.

Please do not hesitate to contact us if you have any questions regarding this letter of opposition.

Yours truly,
Yogi Kwong Engineers, LLC

A handwritten signature in black ink that reads "Jeffrey K. Kalani".

Jeffrey K. Kalani, P.E.
President/CEO

SB-3370

Submitted on: 2/9/2022 1:21:34 PM

Testimony for TRS on 2/10/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
CHARLES JURY	Testifying for Okahara and Associates	Oppose	No

Comments:

February 9, 2022

Senate Committee on Transportation

Hearing Date: Thursday, February 10, 2022, 3:00 p.m.

Honorable Chair Chris Lee, Vice Chair Lorraine R. Inouye, and Members of the Committee

Subject: **SB 3370, Relating to Construction Management**

TESTIMONY IN OPPOSITION

Dear Chair Lee, Vice Chair Inouye, and Committee Members:

Okahara and Associates, Inc. is a multi-disciplined (civil, mechanical and landscape architecture) consulting engineering firm, which has been doing business in Hawai'i for the past 40 years. We are a Hawai'i based company with offices on Oahu and Hawai'i Island.

We strongly oppose this bill because it does not comply with HRS §103D-304, which involves Qualifications-Based Selection (QBS).

The primary reasons for this include the roles of responsibility that construction management services have regarding public safety and responsible oversight of government-funded construction projects. That is why Qualifications-Based Selection (QBS) is the nationally recognized model for procuring construction management services, and design services, for all public works construction projects.

Construction managers serve as the project owner's on-site representative and are responsible for observing and documenting compliance with the design plans and specifications and project permits. They are intimately familiar with the scope of work, project tasks, and potential constructability constraints. Construction managers need to work closely with the designers and construction contractors to solve potential unforeseen circumstances. This essential collaboration is needed for safety reasons and can help minimize cost overruns, but only if the

most qualified professionals are selected on a project-by-project basis to serve as the construction manager.

Thank you for the opportunity to testify on this matter.



CMAA Hawai'i Chapter
PO Box 531
Honolulu, HI 96809
February 9, 2022

Senate Committee on Transportation
Hearing Date: Thursday, February 10, 2022, 3:00 p.m.

Honorable Chair Chris Lee, Vice Chair Lorraine R. Inouye, and Members of the Committee

Subject: **SB 3370, Relating to Construction Management**
TESTIMONY IN OPPOSITION

Dear Chair Lee, Vice Chair Inouye, and Committee Members:

The Construction Management Association of America (CMAA) Hawai'i Chapter represents more than 30 member firms with hundreds of employees throughout Hawaii. CMAA member firm projects directly affect the quality of the water we drink; the safety of our buildings, highways, bridges, and infrastructure; and the quality of the environment in which we work and play.

Our members provide construction management services, which requires a deep understanding of design and construction processes. We are unsure if the bill is attempting to encourage the use of unlicensed firms to provide construction management services, but we question whether the State wants to assume the related risks and costs of using potentially unqualified firms for this role.

Additionally, construction managers operate as a client's on-site representative and are responsible for observing compliance with the design plans and specifications. They are intimately familiar with the scope of work, project tasks, and potential constructability constraints. Construction managers need to work closely with the contractor to solve potential unforeseen circumstances. This essential collaboration can help minimize cost overruns or costly change orders if the construction manager is thoroughly qualified and properly trained.

For design professionals licensed under Chapter 464 and providing construction management, qualification-based selection in accordance with HRS §103D-304 is required. "Qualifications-based selection" (QBS) is the nationally recognized model procurement code for the procurement of design professional services and provides the project owner with the most qualified representative in the construction process, reducing the owner's risks.

CMAA Hawai'i Chapter requests this bill be deferred.

February 9, 2022

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We appreciate the opportunity to provide testimony on this matter. Please do not hesitate to contact us if you have any questions.

Respectfully submitted,
CONSTRUCTION MANAGERS ASSOCIATION OF AMERICA
HAWAI'I CHAPTER



Ivan Nakasone, P.E., CCM, LEED AP-BD+C, CISEC
President
(808) 561-0196

LATE

SB-3370

Submitted on: 2/9/2022 3:10:32 PM

Testimony for TRS on 2/10/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michael P. Matsumoto	Testifying for SSFM International, Inc.	Oppose	No

Comments:

I am the President/CEO of SSFM International, a 63-year old Hawaii-based project management, planning, and engineering company with 4 Hawaii offices and a total Hawaii-based staff of 150 professionals, technicians, and support staff.

I am opposition of this Bill because it is not in compliance with HRS 103D-304 which is based on Qualifications-Based-Selection (QBS) for professional services.

Thank you very much for this opportunity to submit testimony.

SB-3370

Submitted on: 2/9/2022 11:19:42 AM

Testimony for TRS on 2/10/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sandie Wong	Individual	Oppose	Yes

Comments:

I strongly oppose SB3370. No need for this Pilot Program is articulated in the Bill, so I don't even think there is a need for this. But, most importantly, Construction Management Services is a very important role and comes with much responsibility, so it should only be done by qualified professionals and be selected via Qualification Based Selection. This Pilot Program would put in the jeopardy public safety and the quality of government funded construction projects. Lastly, I join in the testimony of the American Council of Engineering Companies, Hawaii who represents more than 70 local design professional firms in the State of Hawaii. Thank you.

SB-3370

Submitted on: 2/7/2022 2:03:42 PM

Testimony for TRS on 2/10/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

This whole system is Crooked. This needs to be Wiped Out and you need to starte Again.